

SHERYL CHAPMAN,

Plaintiff,

v.

**STANDARD SECURITY LIFE
INSURANCE COMPANY OF NEW
YORK AND
IHC HEALTH SOLUTIONS, INC.,**

Defendants.

THIS MATTER is before the Court on the “Defendants’ Motion to Dismiss,” Doc. 14, filed September 26, 2014 and their associated brief and exhibits, Docs. 14-15. On October 8, 2014, Plaintiff filed “Plaintiff’s Memorandum of Law in Opposition to Defendants’ Motion to Dismiss,” Doc. 19. On November 3, 2014, Defendants filed “Defendants’ Reply to Plaintiff’s Response to Defendants’ Motion to Dismiss,” Doc. 22.

The parties have consented to Magistrate Judge jurisdiction under 28 U.S.C. § 636(c), and this Motion is now ripe for the Court's consideration.

Plaintiff seeks benefits under an employee health plan governed by the Employee Retirement Income Security Act of 1974, as amended (“ERISA”), 29 U.S.C. § 1001 et seq. Plaintiff claims that she is entitled to payment for her medical expenses related to bilateral prophylactic mastectomies and breast reconstruction.


In their Motion, Defendants argue that Plaintiff's Complaint should be dismissed under Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim upon which relief can be granted. Defendants argue that Plaintiff's First Claim for Relief should be dismissed because the terms of the health plan only provide coverage for charges incurred "as a result of an Injury or Sickness," and specifically exclude coverage for prophylactic treatment. Defendants also argue that Plaintiff cannot repackage her benefits claim into alternative theories and therefore, her Second, Third and Fourth Claims are duplicative and should also be dismissed.

After fully considering the arguments, the record, and the applicable authority, the Court finds that for the reasons set forth in Plaintiff's Opposition brief, Doc. 19, the Motion is **DENIED**.

The Clerk is directed to send copies of this Order to counsel for the parties.

SO ORDERED.

Signed: November 18, 2014



David S. Cayer
United States Magistrate Judge

